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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,530	03/08/2002	Claude Dubief	5725.0301-01	9725
22852	7590	01/30/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			CHANNAVAJJALA, LAKSHMI SARADA	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/092,530

Applicant(s)

DUBIEF ET AL.

Examiner

Lakshmi S Channavajjala

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 30,32-39,42-59 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30,32-39,42-50,52-59 and 61-67 is/are rejected.
- 7) ☒ Claim(s) 51 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 1615

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-12-03 has been entered.

### *Claims*

Claims 30,32-39,42-59 and 61-67 are pending prosecution.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 32-39, 42-50, 52-59 and 61-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 93/23009.

WO '009 teaches cosmetic compositions containing vinyl silicone graft or block copolymers. The vinyl-silicone copolymer of WO '009 contains a silicone backbone with a vinyl polymeric segment grafted on to the backbone (structure on page 8). The vinyl polymeric segment represented by "A" includes the claimed monomers of instant claims 33-39 (pages 11-14). Applicants also admit that the suitable polysiloxane polymers for present invention include those taught by WO '009 (page 1, lines 21-26). Further, WO '009 teaches 0.01% to 30% by

Art Unit: 1615

weight of vinyl-silicone copolymers in hair care products such as shampoos, hair rinses, hair setting products (pages 40-41).

WO '009 teaches the hair care products in the form of liquid, cream, gel, rinse-off or leave-on products etc (pages 40-43). WO '009 also teaches aerosol sprays, pump sprays etc., for setting hair in the desired style (page 41, examples 26-30). In particular, WO '009 teaches skin care and hair care compositions and teaches that the silicone polymers when incorporated in hair care compositions impart excellent brilliance, gloss, conditioning and style retention to hair without stiff or sticky feel (page 7, lines 17-20).

WO '009 particularly teaches that for hair care compositions, the vinyl-silicone polymers can be used in combination with conventional polymers such as anionic, cationic or amphoteric polymers (page 42, lines 21-26). However, WO '009 fails to teach aqueous dispersion of insoluble particles of at least one cationic polymer of the instant claims. With respect to the solvent to be used, WO '009 suggests that the solvent must be selected so as to dissolve or disperse the silicone polymer being used. Thus, WO '009 teaches preparing hair care composition in the form of aerosols containing the claimed silicone polymers and further suggests adding copolymers selected from cationic, anionic, amphoteric or nonionic polymers. WO '009 also teaches the amount of silicone polymer and solvents that include the claimed ranges. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use a combination of polysiloxane polymers in combination polymers such as cationic, anionic etc polymers and further, depending on the polymer used, choose a solvent such that a dispersion or a solution containing silicone polymer is prepared, depending on if the hair composition is left on the hair or rinsed off. Accordingly, in absence of showing

Art Unit: 1615

criticality one of a skilled artisan would chose an appropriate cationic polymer in the hair care composition of WO '009 containing a silicone polymer with a polysiloxane backbone with an expectation to provide excellent brilliance, gloss, conditioning and style retention to hair without stiff or sticky feel.

*Allowable Subject Matter*

Claims 51 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Instant claim recites an aqueous dispersion made of specific cationic polymers i.e., copolymers of acrylamide and trimethylammonioethyl methacrylate; and copolymers of alkyl methacrylate, alkyl acrylate and trimethylammonioethyl (meth)acrylate. The prior art of record does not recognize a specific combination of the claimed grafted silicone polymer having a polysiloxane skeleton with a non-silicone organic monomers and an aqueous dispersion comprising particles of the specific cationic polymer of the instant claim, in an aerosol. The closest prior art (US 5,632,998) teaches cationic polymers, but teaches away from silicone-grafted polysiloxanes as conditioning agents and suggest replacing with non-silicone polymer for improved hair adhesion/hold, economics, conditioning etc. Accordingly, the claimed combination of polysiloxane polymers and the specific cationic polymers of claim 51 are non-obvious from the prior art.

Art Unit: 1615

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent no. 5,632,998 to Midha et al., col. 1, lines 45-60 and cols. 26-27.

### *Response to Arguments*

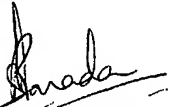
Applicant's arguments with respect to claims 30-39 and 42-67 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 1615

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

  
Lakshmi S Channavajjala  
Examiner  
Art Unit 1615  
January 28, 2004